

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-220-G - ORDER NO. 2002-85

FEBRUARY 6, 2002

IN RE: Application of South Carolina Pipeline Corporation for Approval of an Open Access Gas Transmission Tariff.) ORDER DENYING) RELIEF IN PART AND) GRANTING ORAL) ARGUMENTS
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This matter comes before the Public Service Commission of South Carolina (the Commission) for disposition of a Motion of the City of Orangeburg (Orangeburg or the City) for relief in this matter involving South Carolina Pipeline Corporation (SCPC or Pipeline). SCPC filed a Reply to the Motion. Various other parties filed documents in support or partial support of the Motion. Because of the reasoning stated below, we deny in part and grant oral arguments on part of the Motion.

First, the City urges this Commission to reject SCPC's Application in its entirety, based on alleged non-compliance with Commission Regulation 103-834(3)(D) and (E), which require an applicant to show a computation of the proposed increase or decrease and the effect of the proposed increase or decrease to include copies of present and proposed tariffs, respectively. Further, Orangeburg states that the Application is devoid of the "detailed support" needed by the Commission and the parties to adequately evaluate the reasonableness of the rates, terms, and conditions proposed by the Company.

In response to the first portion of the City's Motion, SCPC states its belief that the Company fully complied with Regulation 103-834(D) in Exhibits C-3 and C-4 attached

to the Application. SCPC notes that the rule does not specify a particular method of computation of the proposed rate increase, nor has any standardized format evolved or been uniformly used by many companies under the Commission's jurisdiction. To address this issue, SCPC chose to compute the proposed increase by comparing revenue generated under the existing tariff with the revenue projected to be generated under the proposed transportation tariff. Regarding Regulation 103-834(E), SCPC relies again on Exhibits C-3 and C-4 of the Application, which it says clearly sets forth the effect of the proposed increase on the Company's operations. SCPC states that a rate by rate comparison between the existing tariff and the proposed transportation tariff was not provided because the rates, rate categories and classifications are not comparable, and that, in fact, it is impossible to perform such a comparison. SCPC further states that Orangeburg cites no legal authority for its proposition that the Application contains insufficient detail for the Commission and interested parties to evaluate the reasonableness of the proposed tariff, and that parties can conduct discovery.

We deny this portion of the City's Motion, in that we agree with SCPC's reasoning as stated above. We find that SCPC's Exhibits C-3 and C-4 are sufficient in fulfilling the requirements of Regulation 103-834(D) and (E). The services that SCPC is providing and the rates that the company proposes to provide cannot be compared and therefore the Application should not be rejected due to failure to comply with 103-843(3)(D) and (E). Further, we hold that any additional detail that the City seeks can be solicited through the discovery process.

Second, Orangeburg urges this Commission to convene a hearing on whether the proposed abandonment of service comports with the public interest, convenience and necessity. The City asks that Pipeline not be allowed to abandon any of the natural gas services that it currently offers until after the Commission authorizes it to do so based on specific findings, supported by substantial evidence of the record that abandonment is in the public convenience and necessity. Orangeburg states that if the Commission were to decline to fully review Pipeline's proposed abandonment of services, or to fail to provide affected parties sufficient opportunity and process to fully explore all issues incident to the proposed abandonment, the conclusion would be inescapable that the effective State regulation contemplated by the Hinshaw Amendment is not in place. Orangeburg notes that the Hinshaw Amendment exempts SCPC's natural gas business from the jurisdiction of the Federal Energy Regulatory Commission (FERC) pursuant to the provisions of the Natural Gas Act.

South Carolina Pipeline Corporation states that the proposed transportation tariff better reflects the current market and operating environment for the natural gas industry in South Carolina. Further, Pipeline notes that Orangeburg's issues may be addressed in the already scheduled hearing. Further, Orangeburg can take part in discovery, the cross-examination of witnesses, and can participate in all aspects of the scheduled hearing. SCPC states a belief that bifurcation is unnecessary, in that the Commission would end up hearing the same issues twice. Further, according to Pipeline, the outcome of the Commission's deliberations in this proceeding will not strip SCPC of its "Hinshaw"

status, nor strip the Commission of the very jurisdiction that enabled its deliberations. SCPC will continue to be a Hinshaw pipeline.

The portion of Orangeburg's Motion requesting a separate hearing to address the issue of abandonment of service and public convenience and necessity is denied. Orangeburg can participate in discovery, file testimony, present witnesses, and cross-examine other parties' witnesses during the merits hearing already scheduled. This Commission has set aside the week of March 4, 2002 to hear evidence regarding the pending Application, and parties will have an opportunity during this time to present relevant evidence regarding their positions. Further, SCPC will continue to provide services under its current tariff until such time as the Commission issues a decision regarding its pending Application. This statement in no way means that the Application will be either denied or granted, however.

Finally, Orangeburg moves that this Commission issue a declaratory order ruling that the six-months decision deadline imposed by S.C. Code Ann. Section 58-5-240(C) is inapplicable to the type of "service restructuring" proceeding initiated by SCPC with its November 6, 2001 Application. Orangeburg states that the deadline should be found inapplicable in this proceeding, because this deadline typically has been applied specifically to petitions to the Commission for rate changes, and is clearly intended to protect a utility from revenue shortfalls where the utility seeks solely to increase its rates. Orangeburg states that Pipeline does not request a change in rate, but that it is a complete restructuring of services. Second, Orangeburg contends that the six-months period is insufficient to permit full consideration of the many issues raised by the sweeping

restructuring of services, including abandonment of service, and that the deadline deprives interested parties of their due process rights, since it would not furnish a reasonable opportunity to fully investigate and explore the issues directly raised by the Application and other pertinent issues.

Pipeline contends that the pending Application requests approval of a new tariff that would implement new rates and a new rate structure, new terms and conditions and new service agreements. The Company further notes that S.C. Code Ann. Section 58-5-240 governs new rates, tolls, rentals, etc. These new rates must be filed with the Commission and must be set forth in a schedule. Pipeline also contends that Orangeburg's due process rights will not be neglected, as the proceeding will allow Orangeburg ample opportunity to participate and have issues important to it presented for consideration by the Commission.

Upon due consideration, we hereby set oral arguments on the proposed declaratory ruling. SCPC's Application for approval of an open access gas transmission tariff is a novel issue before this Commission which should be carefully deliberated. Additionally, further argument by the parties involved with the case will be helpful to the Commission in its deliberations regarding the applicability of Section 58-5-240(C) to this matter.

Accordingly, we deny Orangeburg's Motion in part as indicated above, but we set oral arguments on the applicability of Section 58-5-240 (C) to this proceeding.

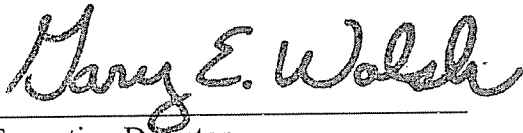
This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

A handwritten signature in cursive script, appearing to read "William Buckley", written over a horizontal line.

Chairman

ATTEST:

A handwritten signature in cursive script, appearing to read "Mary E. Walsh", written over a horizontal line.

Executive Director

(SEAL)